



Sentencing (Vehicle Confiscation) Amendment Act 2009

Public Act 2009 No 37
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Commencement see section 2

Contents

		Page
1	Title	2
2	Commencement	3
3	Principal Act amended	3
4	Purpose	3
5	Interpretation of terms used in sections 128 to 142	3
6	Confiscation of motor vehicle	4
7	New sections 129A to 129F inserted	5
	129A Confiscation and destruction after third illegal street racing offence	5
	129B Written caution to persons with interest in motor vehicles involved in offences	6
	129C Review of written caution	8
	129D Written caution of no effect if conviction quashed	9
	129E Appeal against confiscation by persons treated as substitutes	9
	129F Warning notice to secured parties if confiscation not ordered for second illegal street racing offence	11
8	Court may order declaration of ownership to be completed	12
9	New section 130A inserted	12
	130A Court may disregard disposal of motor vehicle by person after written caution	12
10	If motor vehicle has been disposed of, court may prohibit offender from acquiring another motor vehicle	13
11	Enforcement of confiscation order	13

s 1	Sentencing (Vehicle Confiscation) Amendment Act 2009	2009 No 37
12	New section 132A inserted	13
	132A Offence to sell or dispose of motor vehicle subject to confiscation order	14
13	Offender must not acquire new interest in motor vehicle for 12 months	14
14	New section 136A inserted	14
	136A Registrar must seek deregistration of motor vehicle subject to confiscation and destruction order	14
15	Sale of confiscated motor vehicles	15
16	New sections 137A to 137C inserted	16
	137A Certain sales conditional on dismantling and destruction	16
	137B Failure to comply with condition to dismantle and destroy	16
	137C Sale of motor vehicle surrendered or recovered under section 137B	17
17	Disposal of unsaleable confiscated vehicle	17
18	New section 138A inserted	17
	138A Offender liable for outstanding costs of seizure, storage, and sale	17
19	New sections 140 to 141B substituted	18
	140 Lessor under leasing agreement may apply to Registrar	18
	141 Secured party may apply to court	18
	141A Certain payments required before transfers take effect	19
	141B Application of proceeds of sale by secured party	19
20	Order may be cancelled on application by bona fide purchaser	20
21	Transitional provisions	20

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Sentencing (Vehicle Confiscation) Amendment Act 2009.

2 Commencement

This Act comes into force on 1 December 2009.

3 Principal Act amended

This Act amends the Sentencing Act 2002.

4 Purpose

The purpose of this Act is to reduce traffic offending by—

- (a) strengthening the powers of the courts to order the confiscation of motor vehicles;
- (b) empowering the courts to order the destruction of motor vehicles used by persistent illegal street racing offenders.

5 Interpretation of terms used in sections 128 to 142

- (1) Section 127(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**impoundment costs**, in relation to a motor vehicle that has been confiscated while impounded under the Land Transport Act 1998, means the fees and charges for towage and storage that are prescribed or assessed in the manner specified by regulations made under section 167 of that Act, and, where those fees and charges have already been paid by the chief executive of the Ministry of Justice, means the amount required to reimburse the chief executive for that payment

“**person who is registered**, in relation to a motor vehicle, means the person who is registered under the Land Transport Act 1998 in respect of the vehicle, and where several persons are so registered, means any one of those persons

“**written caution** means a caution issued under section 129B.”

- (2) Section 127 is amended by adding the following subsection:
- “(3) For the purposes of sections 128 to 142, a person is, in relation to an offender, a **substitute for the offender** or a **substitute** if—
- “(a) the person is served with a written caution, under section 129B, about an offence committed by the offender; and

- “(b) within 4 years after the date of the commission of the offence for which that written caution was served, the offender commits a further offence specified in section 128(1) involving a motor vehicle that, at the time of the commission of that offence, the person owns or has an interest in.”

6 Confiscation of motor vehicle

- (1) Section 128(1)(b) is amended by inserting “52(1)(aa), 52(1)(c) (but only in relation to failing to stop in accordance with section 114(2) or failing to give particulars in accordance with section 114(3)),” after “39(1),”.
- (2) Section 128 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) A court may exercise the power in subsection (3) if a person is convicted of an offence referred to in subsection (1) and the court by or before which the offender is convicted is satisfied—
- “(a) that a motor vehicle—
- “(i) was used to commit or facilitate the commission of the offence, whether or not the offender was the driver or person in charge; or
- “(ii) in the case of an offence against any of the provisions of sections 35(1)(a) and (b), 36(1)(a), 36A(1)(a) and (c), 38(1), 39(1), 52(1)(aa) and (c), and 56 to 62 of the Land Transport Act 1998, was being driven by, or in the charge of, the offender at the material time; or
- “(iii) was used by the offender, whether or not the offender was the driver or person in charge, to facilitate the offender’s flight or avoid his or her detection or arrest after the commission of the offence; and
- “(b) that, at the time of the conviction, the offender or a substitute for the offender owns the motor vehicle or has an interest in the motor vehicle.”
- (3) Section 128 is amended by inserting the following subsection after subsection (3):

- “(3A) The court must not make an order under this section in respect of a motor vehicle that a substitute for an offender owns or has an interest in if satisfied that—
- “(a) the substitute did not know, and could not reasonably have known, that the offender would commit the offence or offences; or
 - “(b) the substitute took all reasonable steps to prevent the offender from committing the offence or offences.”
- (4) Section 128(5)(a) is amended by inserting “or, as the case requires, to the substitute for the offender” after “the offender”.
- (5) Section 128(5)(c) is amended by inserting “, or, as the case requires, the interest of the substitute for the offender,” after “offender’s interest”.

7 New sections 129A to 129F inserted

The following sections are inserted after section 129:

“129A Confiscation and destruction after third illegal street racing offence

- “(1) This section applies if—
- “(a) an offender commits an offence against section 36A(1)(a) or (c) of the Land Transport Act 1998 (the **current offence**); and
 - “(b) the offender has previously been convicted of 2 offences (the **previous offences**) against section 36A(1)(a) or (c) of the Land Transport Act 1998 that were each committed within the period of 4 years before the commission of the current offence.
- “(2) For the purpose of subsection (1), it does not matter whether or not the offences are of the same kind, but the current offence and each of the previous offences must arise from different incidents.
- “(3) The court by or before which the offender is convicted of the current offence may order the confiscation and destruction of any motor vehicle if satisfied that the offender was driving, or was in charge of, the motor vehicle at the material time and that—
- “(a) the offender owns or has any interest in the motor vehicle; or

- “(b) a substitute for the offender owns or has an interest in the motor vehicle if the written caution served on the substitute was issued in respect of an offence specified in subsection (1)(a).
- “(4) The court must not make an order under subsection (3) if it will result in extreme hardship to the offender or undue hardship to any other person, including, without limitation, to any substitute for the offender.

“129B Written caution to persons with interest in motor vehicles involved in offences

- “(1) Subsection (2) applies whenever—
 - “(a) a court convicts an offender of an offence specified in section 128(1) involving a motor vehicle; and
 - “(b) the court is satisfied the offence was committed in circumstances that would permit or require the confiscation of the motor vehicle under section 128, 129, or 129A if the offender owned or had an interest in it at the time of conviction; and
 - “(c) it appears to the court that the offender does not own or have an interest in the motor vehicle.
- “(2) The court by or before which the offender is convicted must order that a written caution be served on every person (other than the offender) who is registered in respect of the motor vehicle or who the court believes owns or has an interest in the motor vehicle.
- “(3) Despite subsection (2), a written caution must not be served—
 - “(a) on anyone if the court is satisfied that the motor vehicle—
 - “(i) was stolen or converted at the material time; or
 - “(ii) was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998;
 - “(b) on a person who the court is satisfied—
 - “(i) did not own or have an interest in the motor vehicle at the material time; or
 - “(ii) is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the offender.

- “(4) On any 1 occasion, a court may only order that 1 written caution is to be served on each recipient described in subsection (2), regardless of the number of convictions entered against the offender.
- “(5) A written caution must provide the following information:
- “(a) the name and identifying details of the offender:
 - “(b) the relevant convictions against the offender:
 - “(c) the identifying details of the motor vehicle:
 - “(d) that the recipient is believed to own or have an interest in the motor vehicle and that none of the exceptions stated in subsection (3) has been established to the satisfaction of the court:
 - “(e) a warning that if the offender is convicted of a further offence specified in section 128(1) that involves a motor vehicle owned by the recipient or in which the recipient has an interest, the motor vehicle is liable to be confiscated or confiscated and destroyed:
 - “(f) the recipient’s right to seek a review of the court’s decision to order the service of the written caution on the recipient.
- “(6) The written caution remains current for 4 years after the date of the commission of the offence for which that written caution is served.
- “(7) A written caution ordered to be served on a person must be served on the person in one of the following ways:
- “(a) by being delivered to the person personally or by being brought to the person’s notice if the person refuses to accept it:
 - “(b) by being left for the person at the person’s place of residence with another person (other than the offender) who appears to be of or over the age of 14 years.
- “(8) A written caution may be served by one of the following persons:
- “(a) a Police employee:
 - “(b) an officer of the court:
 - “(c) any person who is authorised to serve the written caution under a general or particular authority given by a District Court Judge or Registrar:

- “(d) any officer or employee of a corporation that is authorised by the Secretary for Justice to serve the written caution.
- “(9) An endorsement on a copy of a written caution stating the fact, the date, and the time of service and purporting to be signed by a person of a kind described in subsection (8) is, in the absence of evidence to the contrary, sufficient proof of service of the written caution in accordance with this section.

“129C Review of written caution

- “(1) A person served with a written caution may, within 20 working days after the date of service, apply to the court that ordered the service of the written caution for a review of the decision to serve the applicant on 1 or more of the following grounds:
 - “(a) the motor vehicle was stolen or converted at the material time:
 - “(b) the applicant did not own or have an interest in the motor vehicle at the material time:
 - “(c) the applicant is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the offender:
 - “(d) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(2) Every application must include a statutory declaration that specifies a ground stated in subsection (1) and why that ground applies.
- “(3) The Registrar must promptly forward a copy of the application to the prosecuting agency in the proceeding that resulted in the relevant conviction.
- “(4) The prosecuting agency may, within 10 working days after the day on which the copy of the application is forwarded to the agency, make a written submission to the court.
- “(5) The court must conduct the review on the papers, unless the court considers a hearing necessary.
- “(6) If satisfied that a ground stated in subsection (1) applies, the following provisions apply:
 - “(a) the court must cancel the written caution served on the applicant:

- “(b) if the ground for cancelling the applicant’s written caution is that stated in subsection (1)(a) or (d), the court must also cancel the written caution served on any other person under the same order that required service of the written caution on the applicant:
- “(c) the Registrar must advise, by ordinary post, facsimile, email, or other electronic means, every person (including the applicant) whose written caution is cancelled of that outcome:
- “(d) if a written caution served on a person is cancelled, the written caution is deemed not to have been served on the person.

“129D Written caution of no effect if conviction quashed

- “(1) If all of the convictions in respect of which a written caution has been served on a person are quashed, and no convictions for offences qualifying for confiscation under section 128, 129, or 129A are substituted, the written caution ceases to have effect and is deemed not to have been served.
- “(2) If a written caution ceases to have effect under subsection (1), the Registrar must, by ordinary post, facsimile, email, or other electronic means, advise every person served with the written caution of that outcome.

“129E Appeal against confiscation by persons treated as substitutes

- “(1) If the court orders, under section 128 or 129A, the confiscation of a motor vehicle on the basis that the person who owns it, or has an interest in it, is a substitute for the offender, that person may, within 20 working days after the date of the order, or within any further time that the appropriate court allows, appeal to the appropriate court against the order on 1 or more of the following grounds:
 - “(a) the appellant did not own or have an interest in the motor vehicle at the material time:
 - “(b) the motor vehicle was stolen or converted at the material time:

- “(c) the appellant did not know, and could not reasonably have known, that the offender would commit the offence or offences:
 - “(d) the appellant took all reasonable steps to prevent the offender from committing the offence or offences:
 - “(e) the appellant had not, prior to the commission of the offence or offences, been served with a written caution under section 129B in relation to the offender:
 - “(f) the appellant is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the offender:
 - “(g) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(2) The appellant must serve the notice of appeal on—
- “(a) the prosecuting agency in the proceeding that resulted in the relevant conviction; and
 - “(b) any other person treated as a substitute who owns or has an interest in the motor vehicle.
- “(3) The persons described in subsection (2) are parties to the appeal.
- “(4) The right of appeal under subsection (1) is independent of the offender’s right of appeal against conviction and sentence for the relevant offence or offences.
- “(5) The court must set aside the confiscation of the motor vehicle if satisfied that—
- “(a) a ground stated in subsection (1)(b) or (g) applies; or
 - “(b) another ground stated in that subsection applies to the appellant and to every other person who is treated as a substitute for the offender.
- “(6) For the purposes of subsection (1),—
- “(a) if the order was made in a District Court, the appeal must be brought in the High Court in accordance with the High Court Rules:
 - “(b) if the order was made in the High Court, the appeal must be brought in the Court of Appeal in accordance with the rules of court governing civil appeals to that court.

“129F Warning notice to secured parties if confiscation not ordered for second illegal street racing offence

- “(1) This section applies if—
- “(a) an offender commits an offence against section 36A(1)(a) or (c) of the Land Transport Act 1998 (the **current offence**); and
 - “(b) the offender has previously been convicted of an offence (the **previous offence**) against section 36A(1)(a) or (c) of the Land Transport Act 1998 committed within the period of 4 years before the commission of the current offence; and
 - “(c) the court by or before which the offender is convicted of the current offence is satisfied that a motor vehicle owned by the offender or by the substitute for the offender or in which the offender or the substitute has any interest was being driven by, or in the charge of, the offender at the material time; and
 - “(d) the court does not order the confiscation of the motor vehicle.
- “(2) The Registrar must—
- “(a) check whether a financing statement has been registered in respect of the motor vehicle on the personal property securities register kept under the Personal Property Securities Act 1999; and
 - “(b) issue a warning notice stating that any motor vehicle owned by the offender or by the substitute for the offender or in which the offender or the substitute has an interest is liable to be confiscated and destroyed if the offender commits another offence against section 36A(1)(a) or (c) of the Land Transport Act 1998 before the expiry of 4 years from the commission of the previous offence; and
 - “(c) send the warning notice, by ordinary post, facsimile, email, or other electronic means to every person (other than the offender or the substitute) who the Registrar believes is a party to an encumbrance relating to the motor vehicle.
- “(3) The jurisdiction of a court to make a confiscation and destruction order under section 129A or 136(4) or the validity of any

order made under those sections is not affected by a failure to comply with subsection (2).”

8 Court may order declaration of ownership to be completed

- (1) Section 130(1) is amended by omitting “section 128 or section 129” and substituting “section 128, 129, or 129A”.
- (2) Section 130(2)(b) is amended by inserting “(including any encumbrance)” after “any interest”.

9 New section 130A inserted

The following section is inserted after section 130:

“130A Court may disregard disposal of motor vehicle by person after written caution

- “(1) This section applies if—
 - “(a) a person has been served with a written caution under section 129B in respect of an offender; and
 - “(b) after being served with the written caution, the person purports to dispose of his or her ownership interest or other interest in the motor vehicle described in the written caution; and
 - “(c) following that disposition, the offender is convicted of a further offence specified in section 128(1) involving that motor vehicle; and
 - “(d) it appears to the court that the offender does not own or have an interest in the motor vehicle.
- “(2) If the circumstances of the further offence described in subsection (1)(c) would, but for that disposition, enable the court to order the confiscation of the motor vehicle under section 128 or 129A on the basis that the person is a substitute for the offender, and the court is not satisfied that the disposition was made with a bona fide intention to dispose permanently of the person’s ownership or interest in the motor vehicle,—
 - “(a) the court may, if it thinks fit, set the disposition aside; and
 - “(b) section 128 or 129A, as the case may be, applies as if the disposition by the person had not occurred.

“(3) Before making an order under subsection (2), the court must give any person to whom the disposition of the motor vehicle was made an opportunity to be heard.”

10 If motor vehicle has been disposed of, court may prohibit offender from acquiring another motor vehicle

(1) Section 131 is amended by repealing subsection (1) and substituting the following subsection:

“(1) This section applies if, in any case to which any of section 128, 129, or 129A would otherwise apply, the offender or any substitute for the offender has, before the date of the offender’s conviction, ceased to be the owner of the motor vehicle or to have any interest in it.”

(2) Section 131(2)(b) is amended by inserting “or the substitute for the offender” after “if the offender”.

(3) Section 131(3) is amended by inserting “or the substitute for the offender” after “made by the offender”.

(4) Section 131(3) is amended by repealing paragraph (b) and substituting the following paragraph:

“(b) section 128, 129, or 129A, as the case may be, applies as if the disposition by the offender or by the substitute for the offender had not occurred.”

11 Enforcement of confiscation order

(1) Section 132 is amended by repealing subsection (1) and substituting the following subsection:

“(1) If a court makes a confiscation order under any of sections 128, 129, and 129A, it must specify in that order the time and place at which the offender or the substitute for the offender must surrender the motor vehicle to the Registrar or to a bailiff or constable.”

(2) Section 132(2) is amended by inserting “or the substitute for the offender” after “the offender”.

(3) Section 132(5)(a) is amended by inserting “or a substitute for an offender” after “an offender”.

12 New section 132A inserted

The following section is inserted after section 132:

“132A Offence to sell or dispose of motor vehicle subject to confiscation order

- “(1) This section applies in any case where a motor vehicle—
- “(a) is subject to an order under any of sections 128(3), 129(3), 129A(3), and 136(4); but
 - “(b) has not yet been surrendered to, or seized by, a Registrar, bailiff, or constable.
- “(2) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, who sells or disposes of the motor vehicle or any part of the motor vehicle.”

13 Offender must not acquire new interest in motor vehicle for 12 months

- (1) Section 136(1)(a) is amended by omitting “section 128 or section 129” and substituting “any of sections 128, 129, and 129A”.
- (2) Section 136 is amended by repealing subsections (4) and (5) and substituting the following subsections:
- “(4) If a court convicts a person of an offence against this section, then instead of, or in addition to, imposing a fine, the court may order that the motor vehicle concerned be confiscated and, where this section applies because of an order under section 129A, may also order that the motor vehicle be destroyed.
- “(5) If a court orders the confiscation, or the confiscation and destruction, of a motor vehicle under subsection (4), sections 130, 131 to 135, this section, and sections 136A to 142 apply accordingly.”

14 New section 136A inserted

The following section is inserted after section 136:

“136A Registrar must seek deregistration of motor vehicle subject to confiscation and destruction order

If, under section 129A or 136(4), the court orders a motor vehicle to be confiscated and destroyed, a Registrar must, before the motor vehicle is sold, seek to have the registration of the motor vehicle cancelled by taking, so far as practicable, any steps required to be taken, under the Land Transport Act 1998,

for that purpose by the owner of, or the person who is registered in respect of, the motor vehicle.”

15 Sale of confiscated motor vehicles

- (1) Section 137(1) is amended by omitting “court may direct” and substituting “Registrar, subject to any direction by the court, thinks fit”.
- (2) Section 137 is amended by repealing subsection (3) and substituting the following subsections:
 - “(3) Subject to subsection (4), the proceeds of the sale must be applied in the following manner and order of priority:
 - “(a) if the motor vehicle has been impounded under the Land Transport Act 1998, in paying any impoundment costs:
 - “(b) in payment of the costs of the sale (including all costs incurred in seizing the motor vehicle, towing and storing the vehicle, and complying with the provisions of this subpart preliminary to sale):
 - “(c) in satisfaction of any amount owed under any encumbrance brought to the notice of the Registrar within 1 month after the date of sale and established to the Registrar’s satisfaction:
 - “(d) in payment of any sentence or order of reparation payable by the offender:
 - “(e) in payment of any levy payable by the offender under this Act:
 - “(f) in payment of any fine or court costs payable by the offender:
 - “(g) to the offender or, as the case requires, the substitute for the offender.
- “(4) If the proceeds arise out of the sale of a motor vehicle owned by a substitute for the offender or in which the substitute had an interest, the proceeds must be applied in the manner and order of priority specified in subsection (3), except that the payment described in paragraphs (d) and (f) of that subsection are limited to sums imposed in respect of offences committed by the offender in a motor vehicle that, at the material time, was owned by the substitute or in which the substitute had an interest.”

16 New sections 137A to 137C inserted

The following sections are inserted after section 137:

“137A Certain sales conditional on dismantling and destruction

- “(1) This section applies if any motor vehicle sold under section 137 is subject to a confiscation and destruction order under section 129A or 136(4).
- “(2) The sale of the motor vehicle is subject to a condition that the purchaser dismantle the motor vehicle for any saleable parts and destroy the remainder of the motor vehicle, to the satisfaction of the Registrar.
- “(3) The condition imposed by subsection (2) must be fulfilled within 30 working days after the date of the sale, or within any longer period that the Registrar specifies in writing.
- “(4) The property in the motor vehicle does not pass from the Crown to the purchaser until the condition imposed by subsection (2) has been fulfilled.

“137B Failure to comply with condition to dismantle and destroy

- “(1) Where the sale of a motor vehicle is subject to a condition imposed by section 137A(2) and that condition is not fulfilled within the appropriate time, the Registrar may require any person in possession of the motor vehicle to surrender it to the Registrar, or a bailiff or constable, at a specified time and place.
- “(2) If the person in possession of the motor vehicle fails to surrender the motor vehicle at the time and place specified by the Registrar, the court may issue a warrant in the prescribed form authorising the Registrar or any bailiff or constable to recover the motor vehicle.
- “(3) For the purpose of executing a warrant issued under subsection (2), the Registrar or bailiff or constable executing it may enter on any premises, by force if necessary, if that officer has reasonable cause to believe that the motor vehicle in respect of which the warrant is issued is on those premises.
- “(4) If any person is in actual occupation of the premises, the Registrar or bailiff or constable must, on entering, produce the warrant to that person.

- “(5) If a motor vehicle is surrendered to or recovered by any bailiff or constable under this section, that officer must, as soon as practicable, deliver it into the custody of the Registrar of the court.
- “(6) Sections 133 and 134 apply, with any necessary modifications, in respect of a motor vehicle surrendered or recovered under this section and to a warrant issued under this section.

“137C Sale of motor vehicle surrendered or recovered under section 137B

- “(1) As soon as practicable after a motor vehicle is delivered into a Registrar’s custody under section 137B, the Registrar must arrange for the sale of the motor vehicle, and sections 137(1) and (2), 137A, and 137B apply to that sale with any necessary modifications.
- “(2) The proceeds of the sale must be applied in the following manner and order of priority:
- “(a) in payment of the costs of the sale (including all costs incurred in recovering the motor vehicle, and towing and storing the vehicle);
 - “(b) in payment of the purchase price to the purchaser to whom the motor vehicle was sold under section 137;
 - “(c) in payment of any unsatisfied amounts described in section 137(3) in accordance with that section and with all necessary modifications.”

17 Disposal of unsaleable confiscated vehicle

Section 138 is amended by inserting “or 137B” after “section 132”.

18 New section 138A inserted

The following section is inserted after section 138:

“138A Offender liable for outstanding costs of seizure, storage, and sale

- “(1) If the amount realised from the sale of a motor vehicle under section 137 or its disposal under section 138 is less than the costs described in subsection (2), the offender is liable for the shortfall between that amount and those costs.
- “(2) The costs are,—

- “(a) if the motor vehicle has been impounded under the Land Transport Act 1998, any impoundment costs; and
 - “(b) the costs of the sale (including all costs incurred in seizing the motor vehicle, towing and storing the vehicle, and complying with the provisions of this subpart preliminary to sale).
- “(3) Subsection (1) applies regardless of whether the offender owned or had an interest in the motor vehicle.
- “(4) Part 3 (except sections 84 and 85) of the Summary Proceedings Act 1957 or (as the case may require) sections 19 to 19F of the Crimes Act 1961 apply with any necessary modifications to any amount the offender is liable to pay under subsection (1) as if it were a fine.
- “(5) A certificate appearing to have been signed by the Registrar that, following the sale or disposal of a motor vehicle, the offender is liable to pay a sum under subsection (1) is, in the absence of proof to the contrary, sufficient evidence of the facts certified, without proof of the signature or office of the person appearing to have signed the certificate.”

19 New sections 140 to 141B substituted

Sections 140 and 141 are repealed and the following sections substituted:

“140 Lessor under leasing agreement may apply to Registrar

- “(1) The lessor (not being the offender or a substitute for the offender whose motor vehicle has been confiscated) under a leasing agreement of a confiscated motor vehicle (not being a motor vehicle that is to be destroyed under section 129A or 136(4)) may apply to the Registrar, at any time before the Registrar has sold the motor vehicle, for the transfer of the motor vehicle to the lessor as if the offender or the substitute had breached the terms of the agreement.
- “(2) If subsection (1) applies, the Registrar may transfer the motor vehicle to the lessor accordingly.
- “(3) This section is subject to section 141A.

“141 Secured party may apply to court

- “(1) Any party (not being the offender or a substitute for the offender whose motor vehicle has been confiscated) to any en-

cumbrance (other than a leasing agreement) over a confiscated motor vehicle may apply to the court, at any time before the Registrar has sold the motor vehicle, for an order under subsection (3).

- “(2) Subsection (1) does not apply to a motor vehicle that is to be destroyed under section 129A or 136(4).
- “(3) The court may, if it thinks fit, make an order—
- “(a) directing the Registrar to transfer the motor vehicle to that other party; and
 - “(b) directing that party to sell the motor vehicle and account for the proceeds of sale in accordance with section 141B.
- “(4) This section is subject to section 141A.

“141A Certain payments required before transfers take effect

- “(1) An order for the transfer of a motor vehicle under section 140 or 141 does not take effect unless the following costs have been paid into court:
- “(a) if the motor vehicle has been impounded under the Land Transport Act 1998, any impoundment costs;
 - “(b) any costs incurred in seizing, towing, and storing the motor vehicle.
- “(2) Any costs required to be paid by subsection (1) must be paid within 10 working days after the day on which the lessor or the secured party is notified of the decision to transfer the vehicle, or within any longer period specified by the Registrar in writing.
- “(3) If the costs specified in subsection (1) are not paid within the time required by or under subsection (2), the Registrar may proceed with the sale of the vehicle under section 137.

“141B Application of proceeds of sale by secured party

- “(1) Every person to whom a motor vehicle is transferred under section 141 must, on disposing of the motor vehicle,—
- “(a) account to the Registrar for the proceeds of the sale;
 - “(b) pay into court the proceeds of the sale, less any costs paid under section 141A, and—
 - “(i) if the encumbrance is a hire purchase agreement and the motor vehicle is used or was acquired for

use primarily for personal, domestic, or household purposes, the amount of the costs and expenses of, and incidental to, the sale within the meaning of section 33 of the Credit (Repossession) Act 1997 and the amount required to settle the agreement under section 31 of that Act; or

- “(ii) in any other case, the amount of the costs and expenses of, and incidental to, the sale within the meaning of section 33 of the Credit (Repossession) Act 1997 and the amount owed by the offender under the encumbrance.

- “(2) The Registrar must then apply the balance remaining in accordance with section 137(3)(d) to (g) with all necessary modifications.”

20 Order may be cancelled on application by bona fide purchaser

- (1) Section 142(1) is amended by inserting “(including a confiscation and destruction order under section 129A or 136(4))” after “confiscation order”.
- (2) Section 142 is amended by repealing subsection (2) and substituting the following subsections:
- “(2) In the circumstances described in subsection (1), the court—
- “(a) must make an order prohibiting the offender from acquiring any interest in a motor vehicle within 12 months after the date of the confiscation order or confiscation and destruction order;
- “(b) may make any other consequential order or orders that it thinks just and reasonable.
- “(3) Section 136 applies with any necessary modifications to an order made under subsection (2)(a).”

21 Transitional provisions

- (1) Sections 129A, 129B, and 129F of the principal Act, as inserted by section 7 of this Act, do not apply in respect of any offence (whether described in those sections as a first offence, second offence, current offence, previous offence, or in any other way) committed before the commencement of section 7.

- (2) Sections 140 to 142 of the principal Act, as in force before the commencement of section 19 of this Act, continue to apply to any motor vehicle confiscated before that commencement.
- (3) In the period commencing on the commencement of this Act and ending immediately before the commencement of section 32(2) of the Land Transport Amendment Act 2009—
- (a) any reference to a person who is registered in respect of a motor vehicle in sections 129B and 136A of the principal Act (as inserted by this Act) must (despite the definition of that term in section 127(1) of the principal Act) be read as a reference to a registered owner within the meaning of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:
- (b) the reference in section 136A of the principal Act (as inserted by this Act) to the Land Transport Act 1998 is taken to be a reference to the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

Legislative history

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| 20 October 2009 | Divided from the Vehicle Confiscation and Seizure Bill (Bill 42–2) by committee of the whole House, third reading |
| 27 October 2009 | Royal assent |
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This Act is administered by the Ministry of Justice and the Department of Corrections.
